

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICHARD J. HELLER,

Plaintiff,

-against-

3:05-CV-0122
(LEK/GHL)

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on November 5, 2007 by the Honorable George H. Lowe, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 13). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff Richard J. Heller, which were filed on November 13, 2007.¹ (Dkt. No. 14).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

¹ The docket indicates that an objection was also filed by Defendant. See Docket No. 16. However, Defendant’s submission is not an objection to the Report-Recommendation, but a response to Plaintiff’s objection

Accordingly, it is hereby

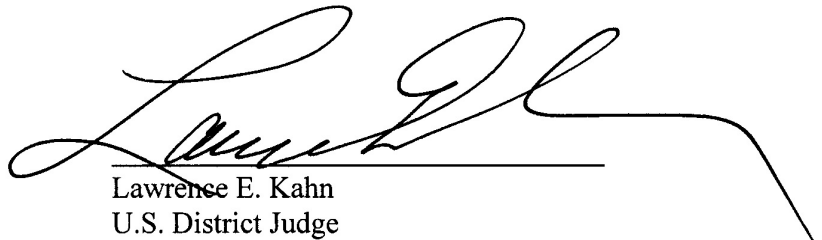
ORDERED, that the Report-Recommendation (Dkt. No. 13) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendant's Motion to dismiss (Dkt. No. 8) is **GRANTED**; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: December 05, 2007
Albany, New York



Lawrence E. Kahn
U.S. District Judge